

THE JUDICIAL COUNCIL OF THE SEVENTH CIRCUIT
219 South Dearborn Street
Chicago, Illinois 60604

September 30, 2021

Chief Judge Diane S. Sykes

No. 07-21-90063

IN RE COMPLAINT AGAINST A JUDGE

MEMORANDUM AND ORDER

The complainant filed a misconduct complaint against the judge who presided over his criminal case. He challenges the judge's evidentiary rulings as well as the judge's decision not to declare a mistrial or grant him a new trial after he was found guilty. He also contends that the judge engaged in "partisan political activity" because the judge has spoken and written about sex trafficking with "strong political views against it." Finally, he challenges the prosecutors' failure to issue a superseding indictment charging a different crime.

Allegations that are directly related to the merits of the judge's decisions are not proper grounds for a misconduct complaint. 28 U.S.C. § 352(b)(1)(A)(ii). "Any allegation that calls into question the correctness of an official action of a judge ... is merits related." STEPHEN BREYER ET AL., IMPLEMENTATION OF THE JUDICIAL CONDUCT AND DISABILITY ACT OF 1980: A REPORT TO THE CHIEF JUSTICE 145 (2006). To the extent that the complainant challenges the judge's procedural or substantive rulings, the allegations are merits related and the complaint must be dismissed. § 352(b)(1)(A)(ii). To the extent that the complainant suggests that the judge was biased against him based on "strong political views" against sex trafficking, he provides no objectively verifiable evidence to support that allegation, and adverse rulings alone are not proof of bias. The allegations of improper bias are thus wholly unsupported and likewise must be dismissed. 28 U.S.C. § 352(b)(1)(A)(iii); *see* RULES FOR JUD.-CONDUCT & JUD.-DISABILITY PROC. 11(c)(1)(D).

Finally, the challenge to the prosecutors' charging decisions is beyond the purview of the Judicial Conduct and Disability Act, 28 U.S.C. §§ 351–364. RULES FOR JUD.-CONDUCT & JUD.-DISABILITY PROC. 1(b) (limiting coverage of the Act to federal judges as defined in the

rules); *see* RULES FOR JUD.-CONDUCT & JUD.-DISABILITY PROC. 8(c) (instructing the circuit clerk not to accept a complaint about a noncovered person).

For the foregoing reasons, the complaint is dismissed pursuant to § 352(b)(1)(A)(ii) and (iii). The complainant may petition the Judicial Council of the Seventh Circuit for review of this order in accordance with Rule 18(b) of the *Rules for Judicial-Conduct and Judicial-Disability Proceedings*. 28 U.S.C. § 352(c); *see* RULES FOR JUD.-CONDUCT & JUD.-DISABILITY PROC. 11(g)(3). A petition for review must be filed in the clerk's office of the United States Court of Appeals for the Seventh Circuit not later than 42 days of the date of this order.